IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4231 OF 1995

Sadashiv Abasaheb Hande, .. Petitioner
Vs
Namdeo Ramu Kute & ors. .. Respondents
Mr R.S.Apte, for the petitioner.
None for the respondents.

CORAM : D.B.BHOSALE,J.

DATE : FEBRUARY 23, 2005.

P.C.

1. Heard Mr Apte, learned counsel for the petitioner. None is present for the respondents.

2. This petition arises out of the orders passed by the courts below in Exhibit-5-application. The trial Court had rejected the application- Exhibit-5 filed by the respondents-plaintiffs seeking injunction against the petitioner restraining him from obstructing their possession over the suit property bearing survey no.47/12/2, admeasuring 13 Gunthas, situate at village Narhe. In appeal, carried by the respondents-plaintiffs against that order, bearing Misc. Civil Appeal No.2/1991, the Appeal Court allowed the application-Exhibit-5 and issued the order of injunction restraining the petitioner-defendant from obstructing possession of

the respondents-plaintiffs over the suit property. Pending hearing of the application Exhibit-5 before the trial Court, no ad-interim order was passed against the petitioner. Even pending Misc. Civil Appeal No.2 of 1991 also no ad-interim order was passed by the Court. This Court, on 18.9.1995, had admitted the petition and the interim relief in terms of prayer clause (b) was granted. Prayer clause (b) reads thus :

> "(b) that pending the hearing and final disposal of this writ petition, implementation, execution and operation of the impugned judgment and order in Misc.Civil Appeal No.2 of 1991 dated 25th July,1995 passed by the 4th Addl. District Judge, Pune at Exhibit "A" hereto arising out of the judgment and order dated 7th December, 1990 in Regular Civil Suit No.1199 of 1990 passed by the 2nd Jt Civil Judge, Jr Dn., Pune at Exhibit "B" hereto, be stayed."

3. In view of the interim order passed by this Court, the order passed by the appeal court dated 25.7.1995 remained operative till this date. Mr Apte, learned counsel for the petitioner, is not in a

position to state whether or not Regular Civil Suit no.1190/90 has been disposed of or is still pending. Keeping that in view and considering the overall facts and circumstances of the case and that the interim relief granted by this Court in 1995 runs against the respondents and considering that they chose not to appear in the instant writ petition, the appropriate course would be to direct the trial Court to dispose of Regular Civil Suit No.1190 of 1990, if not disposed of so far, within timeframe and in the meanwhile, keep the interim relief in operation. Hence the following order.

(i) If Reg.Civil Suit No.1190 of 1990 is still pending, the trial Court shall endeavour to dispose of the same as expeditiously as possible and preferably within a period of one year from the date of receipt of this order. The trial Court shall dispose of the suit on merits in accordance with law and uninfluenced by the observations made by the courts below in the proceedings arising out of Exhibit-5 application.

(ii) The interim relief that was granted by this Court on 18.9.1995, to remain operative till disposal of the suit.

(iii) While passing this order, I shall not be understood to have examined the merits of the case.

(iv) The writ petition is, accordingly, disposed of. Rule is discharged.

(D.B.Bhosale, J.)